

Furthermore, it is respectfully submitted that the issuance of the second restriction requirement in this matter was in error and that, at best, the issuance of a requirement to elect a particular species of generic SEQ ID NO:12 should have been set forth. As the Examiner recognizes, the SEQ ID NO:12 discloses various polymorphisms found within the PCTA-1 gene. Each of these polymorphisms represents one species of the generic sequence provided in Applicants response of October 31, 2001. Indeed, the Courts and the Patent Office have recognized that various polynucleotide sequences can represent individual species within a broader genus (see, for example, *In re Bell*, 991 F.2d 781, 26 U.S.P.Q.2d 1529 (Fed. Cir. 1993); *In re Deuel*, 51 F.3d 1552, 34 U.S.P.Q.2d 1210 (Fed. Cir. 1995); and M.P.E.P. §§ 2144.08(3)(a) *et seq.*). Furthermore, Applicants respectfully submit that the Examiner has the discretion to include, for examination purposes, up to 10 polynucleotide sequences (see M.P.E.P. § 803.04 and *Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68 (November 19, 1996)) and such action is respectfully requested.

In view of the foregoing arguments, Applicants respectfully request either rejoinder and examination of the inventive groups or the examination of the elected invention as a species of the generic sequence of SEQ ID NO:12.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

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Applicants also invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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